

MHIC120000112023



IN THE COURT OF PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, PUNE.

Presided Over by Shri. S. M. Bukke

Reference (IT) No. 04/2023

Dispute between :-

M/s Maas Floj India Pvt. Ltd. ... First Party

And :-

Shivgarjana Kamgar Sanghtana ... Second Party

Appearances :-

Advocate for the first party : Shri. D. J. Bhange

Advocate for the second party : Shri. C.P Audichya

ORDER BELOW EXH. C-25

(Delivered on -09-05-2025)

1. This is an application on behalf of second party to dispose of interim application filed by first party as not maintainable. In alternative the second party craved to decide the limited issue of interim increase in wage in the form of interim award. The second party further craved to decide the whole reference finally.

2. The application in nutshell is as under :-

The second party Union has filed an application for interim relief below Exh. U-10, my Ld. Predecessor on 04/03/2024 allowed

the application Exhibit U-10 and granted interim wage rise. Said order is set aside by Hon'ble Bombay High Court vide order dated 02/05/2024. The Hon'ble High Court observed that the relevant factors for adjudication of wage rise have not at all been considered by this Tribunal and the whole decision making process suffered from legal infirmity. The said order of Hon'ble High Court is upheld by the Supreme Court vide its order dated 12/11/2024.

3. In the context of aforesaid background the first party submitted that purported application for interim relief is not maintainable and cannot be treated as an interim relief at all. At the best it can be treated an application for an interim award within the Section 2(b) of the Industrial Disputes Act, 1947. The application for interim relief will have to be adjudicated as an interim award. Therefore, this Tribunal have to frame proper issues about feasibility of granting interim wage increase and properly adjudicate said issue as an interim award.

4. The second party strongly resisted the application. The second party contended that application filed by first party is with intention to cause delay and deprive the workman from their legitimate right. The Hon'ble High Court has directed this Tribunal to decide the reference within fixed time-frame. Therefore, this Tribunal should hear the argument of both parties and shall decide the interim application Exh. U-10 on merit. Lastly, the first party craved to reject the application.

5. Heard, perused.

6. It is matter of record that the interim application for wage rise of the members of second party Union was allowed by my

Predecessor on 04/03/2023. Said order was set aside by the Hon'ble Bombay High Court and the order of Hon'ble High Court confirmed by Hon'ble Supreme Court. The Hon'ble Bombay High Court vide its order dated 02/05/2024 directed this Court to decide the application Exh. U-10 after giving opportunity of hearing both sides.

7. The Ld. Counsel of first party Shri. Bhanage vehemently argued that in a dispute referred to the Tribunal u/S. 10 of the Act. The proceeding has to be decided on merit and on conclusion thereof it has to submit its award to the appropriate Government. The award may be interim or final. In support of his argument he relied upon the verdict of the Hon'ble Supreme Court of India reported in 1960 SCR (1) 476 – The Management of Hotel Imperial New Delhi and Ors. Vs. Hotel Workers Union, wherein the Hon'ble Apex Court held that, "Interim relief can be granted as a matter incidental to the main question referred to the tribunal, without being explicitly mentioned. After a dispute is referred to the tribunal under S. 10 of the Act, it is enjoined on it by [S.15](#) to hold its proceeding expeditiously and on the conclusion thereof submit its award to the appropriate government. An " award " is defined in s. 2(b) of the Act as meaning " an interim or final determination by an Industrial Tribunal of any industrial dispute or of any question relating thereto." Where an order referring an industrial dispute has been made specifying the points of dispute for adjudication, the tribunal has to confine its adjudication to those points and matters incidental thereto; (s. 10(4)). It is urged on behalf of the appellants that the tribunal in these cases had to confine itself to adjudicating on the points referred and that as the question of interim relief was not referred to it, it could not

adjudicate upon that. We are of opinion that there is no force in this argument, in view of the words " incidental thereto " appearing in S. 10(4). There can be no doubt that if, for example, question of reinstatement and/or compensation is referred to a tribunal for adjudication, the question of granting interim relief till the decision of the tribunal with respect to the same matter would be a matter incidental thereto under S.10(4) and need not be specifically referred in terms to the tribunal. Thus interim relief where it is admissible can be granted as a matter incidental to the main question referred to the tribunal without being itself referred in express terms.”

8. The Ld. Counsel of first party further submitted that there is difference between interim relief and interim award. Under Section 17-B of Industrial Disputes Act, 1947 – the Industrial Tribunal cannot grant interim relief. It can grant an order of interim award. In support of his argument he relied upon the verdict of the Hon’ble Bombay High Court reported in **2011 (4) All.MR 141, Hiru B. Barot Vs. IPCA Laboratories Ltd.** and Another, wherein the Hon’ble Bombay High Court while deciding Letters Patent Appeal relied upon the judgment of Hon’ble Apex Court in Hotel Imperial cited supra and held that, “*there is no provision in the Act empowering the Tribunal to make an order interim relief to discharged workman except by way of making interim award. Therefore, the order passed on interim relief application can be treated as interim award or is only in the nature of interim relief.*”

9. With due respect I have to submit that the ratios laid down in aforesaid cited case laws are squarely applicable to case in

hand. The Industrial Tribunal has to confine its adjudication to those points and matters incidental thereto. The Tribunal has to pass only award either interim or final.

10. While adjudicating the reference u/S. 10(4), the Tribunal has to pass an interim relief or order in the form of temporary measure is an award. Though the second party in its application Exh. U-10 mentioned it as interim relief application. The Industrial Tribunal deciding industrial dispute or any question relating thereto has to confine its adjudication to those points and matter.

11. The First Party has objection to treat application Exh. U-10 as interim relief application. According to First Party the application for interim relief will have to be adjudicated as an interim award and cannot be considered as interim relief at all. In such circumstances in view of the directions of the Hon'ble High Court this Tribunal will proceed to decide the application Exh. U-2 as interim relief of wage rise as interim award. Both parties to note and comply.

ORDER

1. The application Exh. C-25 is partly allowed.
2. The application Exh. U-10 will be decided as interim award on merit.
3. Both parties to proceed as per the directions of Hon'ble High Court order dated 02/05/2024.
4. Parties to take note of this order.

Date : -09-05-2025.

(Shri. S. M. Bukke)
PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, PUNE.